

### REMARKS/ARGUMENTS

Applicants respectfully request further examination and reconsideration in view of the instant response. The claims remaining in the present application are Claims 1-6, 8-12 and 15. Claims 1-6, 8-12 and 15 are rejected. No new matter has been added. Support for the claim amendments can be found at least at page 26, lines 6-25.

### CLAIM REJECTIONS – 35 U.S.C. §103(a)

#### Claims 1-6, 8-12 and 15

The Final Office Action states that Claims 1-6, 8-12 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Danneels (US 6,038,598), in view Engelschall (“Apache HTTP Server Version 1.3: Module mod\_rewrite”), and further in view of Abbott et al. (US 6,314,463), hereinafter “Abbott.” The Decision on Appeal also affirms this rejection. Applicants respectfully submit that the embodiments of the present invention as recited in Claims 1-6, 8-12 and 15 are patentable over the combination of Danneels, Engelschall, and Abbott for at least the following rationale.

“As reiterated by the Supreme Court in *KSR*, the framework for the objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). Obviousness is a question of law based on underlying factual inquiries” including “[a]scertaining the differences between the claimed invention and the prior art” (MPEP 2141(II)). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether

the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious” (emphasis in original; MPEP 2141.02(I)).

Applicants note that “[t]he prior art reference (or references when combined) need not teach or suggest all the claim limitations, however, Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art” (emphasis added; MPEP 2141(III)).

Moreover, Applicants respectfully note that “[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention” (emphasis in original; MPEP 2141.02(VI); *W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), *cert. denied*, 469 U.S. 851 (1984)).

Claim 1 recites, in part, “a control and feedback loop configured for self-regulating partial degradation such that a fraction of said access request addresses are modified to access said second of said plurality of content files when said content server is in said overload condition.” Independent Claim 9 recites similar embodiments. Claims 2-6, 8, 10-12 and 15 that depend from Claims 1 and 9, respectively, also include the embodiments.

Applicants respectfully submit that Danneels does not teach or suggest “a control and feedback loop configured for self-regulating partial degradation such that a fraction of said access request addresses are modified to access said second of said plurality of

content files when said content server is in said overload condition, ” as claimed.

Applicants respectfully submit that Danneels teaches away from “a control and feedback loop configured for self-regulating partial degradation such that a fraction of said access request addresses are modified to access said second of said plurality of content files when said content server is in said overload condition, ” as claimed.

Applicants understand Danneels to (1) be silent in regards to a control and feedback loop and (2) disclose ONLY allowing the transfer of smaller webpages when the server is overloaded. For example, “If the load server is heavy, the server allows only the transfer of selected portions of web pages that are smaller in size (such as still images), along with a message to the user to try again later” (col. 3, lines 32-36, emphasis added).

Accordingly, Danneels teaches away from “a control and feedback loop configured for self-regulating partial degradation such that a fraction of said access request addresses are modified to access said second of said plurality of content files when said content server is in said overload condition,” as claimed, because Danneels is (1) silent in regards to a control and feedback loop and (2) discloses ONLY allowing the transfer of smaller webpages when the server is overloaded,

Moreover, Engelschall does not overcome the deficiencies of Danneels. Applicants understand Engelschall to disclose “a rule-based rewriting engine to rewrite requested URLs on the fly” (page 1). In particular, Engelschall does not disclose “a

control and feedback loop configured for self-regulating partial degradation such that a fraction of said access request addresses are modified to access said second of said plurality of content files when said content server is in said overload condition,” as claimed.

Moreover, Abbott does not overcome the deficiencies of Danneels. Applicants understand Abbott to disclose “serving web pages manages a plurality of web servers” (abstract). In particular, Abbott does not disclose “a control and feedback loop configured for self-regulating partial degradation such that a fraction of said access request addresses are modified to access said second of said plurality of content files when said content server is in said overload condition,” as claimed.

Applicants respectfully submit that the combination of Danneels, Engelschall, and Abbott, as a whole, does not satisfy a *prima facie* case of obviousness under 35 U.S.C. §103(a). Therefore, Applicants respectfully submits that Claims 1-6, 8-12 and 15 are in a condition for allowance.

### CONCLUSION

In light of the above remarks, Applicants respectfully request reconsideration of the rejected claims.

Based on the arguments presented above, Applicants respectfully assert that Claims 1-6, 8-12 and 15 overcome the rejection of record, and therefore Applicants respectfully solicit allowance of these claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER BLECHER LLP

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/John P. Wagner, Jr./  
John P. Wagner, Jr.  
Reg. No. 35,398  
123 Westridge Drive  
Watsonville, CA 95076 USA  
(408) 377-0500